

Application 10/751,166

Filed 01/03/2004

Response to Office action of November 8, 2005

Remarks

Claims 1-4 stand rejected under 35 U.S.C. 101 for lacking statutory basis. Claims 1-4 are cancelled and new claims 5-10 are added. Support for the new claims can be found on page 7, lines 5-24; page 8, lines 23-28; page 16, lines 12-30; page 18, lines 10-20; page 19, lines 1-6; and page 23, lines 5-9. Applicant respectfully submits that no new matter is added by the new claims.

New claims 5-7 are directed towards a method of determining and displaying the winner of a contest played on a playing field. Claims 5-7 accomplish the task of determining a winner by assigning raw scores to each team based on the frequency of achievement of physical tasks during the contest. Claims 5-7 then set final scores based on the assigned raw score. The team on the playing field that has the highest raw score receives a final score that is their raw score enhanced by the other team's raw score. The other team's final score is equal to their raw score. Once all teams have played, the teams are ranked based on their final scores and a winning team is designated. The winning team is then displayed.

As Examiner states in the Office Action of November 8, 2005, in order to be patentable subject matter, MPEP 2106(II)(A) requires "The claimed invention as a whole must accomplish a practical application. That is, it must produce a 'useful, concrete and tangible result.' *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02." Applicant believes that the new claims 5-7 are directed to such a useful, concrete, and tangible result. As described above, the new claims characterize competitive game play, assign scores, rank competing teams, designate a winner, and display the winning team. The result of the claims, assigning final scores and designating and displaying the contest winner is a useful, concrete and tangible result. Therefore, Applicant believes that claims 5-7 are patentable subject matter.

New claims 8-10 are directed towards a method of characterizing competitive game play. In a similar manner as claims 5-7, new claims 8-10 assign raw scores to each team based on the frequency of achievement of physical tasks. Next, claims 8-10 designate a winning team based on the assigned raw score, and attribute a final score to the winning team. The final score attributed to the winning team is the winning team's raw score enhanced by the raw score of the

Application 10/751,166

Filed 01/03/2004

Response to Office action of November 8, 2005

other team. By basing the final score of the winning team on the raw score of the other team, the current invention fosters cooperation between the teams as well as competition. As mentioned in the discussion of claims 8-10, the steps of assigning raw and final scores and designating a winning team based on final scores produces a useful, concrete and tangible result. Therefore, Applicant also believes that claims 8-10 are patentable subject matter.

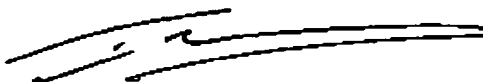
Conclusion

Applicant request reconsideration of the application in view of this amendment.

Applicant believes claims 5-10 are patent subject matter and this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call applicants' attorney at the telephone number listed below.

It is believed that a two-month extension of time is required for this matter. Applicant hereby petitions for same and requests that any extension or other fee required for timely consideration of this application be charged to Deposit Account No. 19-4972.

Respectfully submitted,



Timothy M. Murphy
Registration No. 33,198
Attorney for Applicants

BROMBERG & SUNSTEIN LLP
125 Summer Street
Boston, MA 02110-1618
Tel: (617) 443-9292
Fax: (617) 443-0004
03061/00101 480924.1